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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BAROT, BHARAT

ART UNIT PAPER NUMBER

2155

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/580,665

Applicant(s)

CRAYFORD ET AL

Examiner

Bharat N. Barot

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-41 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

RESPONSE TO AMENDMENT

1. Claims 1-41 remain for further examination.

The old rejection maintained

2. Applicant's arguments with respect to claims 1-41 filed on September 13, 2005 have been fully considered but they are not deemed to be persuasive for the claims 1-41. The rejection is respectfully maintained as set forth in the last Office Action mailed on August 22, 2005.

Claim Rejections - 35 USC § 103(a)

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-14 and 21-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kristol et al (U.S. Patent No. 5,541,927) in view of Barrett et al (U.S. Patent No. 6,490,584).
5. As to claim 1, Kristol et al disclose a network hub in a communication network comprising a server, the server (source) configured to push status packet to a client (destination) (figures 3-6; and column 4 line 31 to column 6 line 19).

However, Kristol et al do not explicitly disclose that the server configured to push status information to a client without a request for the status information from the client, wherein the status information includes network information.

Barrett et al explicitly disclose a server, in a communication network, configured to push status information to a client without a request for the status information from the client, wherein the status information includes network information (see abstract; figure 1; column 1 lines 5-11 and 28-35; column 2 lines 55-67; and column 5 line 41 to column 6 line 47).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Barrett as stated above with the network hub of Kristol et al for pushing status information to a client because it would have improved control through the information is easily reformatted locally and improved transmission efficiency through pushed without a request and archived for later use.

6. As to claims 2-5, Kristol et al disclose that the server unicasts, broadcasts, and multicasts the status information and transmits the status information to a plurality of clients (column 3 lines 53-59).

7. As to claims 6-7, Kristol et al disclose that the hub comprises one of a switch, a repeater, a bridge, a router, a gateway, and a hybrid thereof (figure 3; and column 4 lines 31-49); and the network hub comprises one of an OSI Layer 2 network switch, an

OSI Layer 3 network switch, and a hybrid thereof (figure 2; and column 3 lines 24-52).

Note: Applicant claimed that the hub comprises one of the network elements or layers; therefore, Kristol et al reference read on the claimed invention and the rejection of claims 6-7 is proper.

8. As to claim 8, Kristol et al disclose that the hub is devoid of a microprocessor (column 3 lines 38-42).

9. As to claims 9-10, Kristol et al disclose that the information comprises a predefined status field; and the predefined status field comprises a push transmission field (figure 6; and column 6 lines 14-19). Barrett et al also disclose that information comprises a predefined status field; and the predefined status field comprises a push transmission field (figures 4-6; and column 6 line 49 to column 9 line 3).

10. As to claims 11-13, Kristol et al disclose that the hub further comprising a plurality of ports; the operational information comprises a predefined status field; and the predefined status field corresponds to at least one of the plurality of ports (figures 3-4 and 6; column 4 line 31 to column 5 line 12; and column 6 lines 14-19).

11. As to claim 14, Kristol et al disclose that the hub further comprising memory register for storing the information therein (column 7 lines 33-67).

12. As to claim 21-22, above remarks rejecting claim 1 equally apply here.

Additionally, Barrett et al disclose a communication apparatus (figure 1; and column 5 line 41 to column 6 line47), comprising: a network information table storing network information from the network information receiver; a network information transmitter selectively push transmitting the network information in the network information table; a network information receiver, operably coupled with a communication network and the network information table, receiving network information; and a network operations analyzer analyzing the networking information in the network information table and producing information of a state of the network (see abstract and summary of the invention; figures 4-6; column 1 lines 5-11 and 28-35; and column 6 line 49 to column 9 line3).

13. As to claim 23-26, Kristol et al disclose that the apparatus comprising a hub, a switch, a repeater, a bridge, a router, a gateway, and a hybrid thereof; comprising a plurality of ports coupled to the network information transmitter; and comprising one of an OSI Layer 2 network switch, an OSI Layer 3 network switch, and a hybrid thereof (figures 2-4; column 3 lines 24-52; and column 4 line 31 to column 5 line 12).

14. As to claims 27-28, it would have been obvious matter of design choice to select the number of ports coupled to the network information transmitter for increased the utilization of the communication apparatus.

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15. As to claim 29-30, Kristol et al disclose that the apparatus further comprising a transceiver and a switching interface, each of the network information receiver, the network information table, and the at least one of the network information transmitter and the network information detector being integrated into the network hub; and the network hub comprises one of a switch, a repeater, a bridge, a router, a gateway, and a hybrid thereof (figures 3-4 and 6; column 4 line 31 to column 6 line 2; and column 6 line 14 to column 7 line 67).

16. As to claims 31-40, they are also rejected for the same reasons set forth to rejecting claims 21-30 above. Additionally, Barrett et al disclose a network operations detector detecting the networking information and producing operational information of an operational state of the network; and a network information transmitter for transmitting the operational information of an operational state of the network (figure 1; and column 5 line 41 to column 6 line 47).

17. As to claim 41, Barrett et al disclose that the status information comprises at least one of network status information, hub status information, and server status information (column 1 lines 5-11 and 28-35; and column 5 lines 41-58).

18. Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kristol et al (U.S. Patent No. 5,541,927) in view of Barrett et al (U.S. Patent No. 6,490,584) as applied to claims 1 and 9 above, and further in view of Fujino et al (U.S. Patent No. 5,651,006).

19. As to claims 15-20, neither Kristol et al nor Barrett et al disclose that the information is a management information base (MIB) statistic.

Fujino et al disclose that the information is a management information base (MIB) statistic; and further comprising a MIB engine, a switching fabric and a transceiver (PHY) integrally contained therein, an address resolution table integrally contained therein, and a MIB engine for pushing the predefined status field (abstract; figure 2; column 3 lines 19-23 and 39-43; column 6 lines 5-34; column 7 lines 1-53; and column 22 lines 18-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Fujino et al as stated above with the network hub of Kristol et al for pushing status information to a client because it would have provided economically efficient, secure, and balanced communication between source device and destination device.

Response to Arguments

20. Applicant's arguments with respect to claims 1-41 filed on September 13, 2005 have been fully considered but they are not deemed to be persuasive for the claims 1-41.

In the remarks, the applicant argues that:

(A) Argument: Barrett does not remedy the deficiencies of Kristol and also does not teach or suggest the limitations of the claims 1, 21, and 31.

Response: In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Barrett discloses a server configured to push status information to a client without a request for the status information from the client, wherein the status information includes network information (see abstract; figure 1; column 1 lines 5-11, 28-35, and 59-65; column 2 lines 55-67; and column 5 lines 41-58); therefore, the combination of Kristol and Barrett explicitly teaches the limitations of the claims 1, 21, and 31.

(B) Argument: There is no motivation or suggestion to combine Kristol and Barrett.

Response: In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so

found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Kristol teaches a transmitting a status packet from server to client and Barrett teaches a push technology (transmitting without a request).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Barrett as stated above with the network hub of Kristol et al for pushing status information to a client because it would have improved control through the information is easily reformatted locally and improved transmission efficiency through pushed without a request and archived for later use.

(C) Argument: Barrett does not indicate that a server is a network hub in a communication network.

Response: In response to applicant's arguments, the recitation a network hub in a communication network has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

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21. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Contact Information

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bharat Barot** whose Telephone Number is **(571) 272-3979**. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM. Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number **(571) 273-8300**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Saleh Najjar**, can be reached at **(571) 272-4006**.

Patent Examiner Bharat Barot

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November 15, 2005

Bharat Barot
BHARAT BAROT
PRIMARY EXAMINER